



Legislative Bulletin.....June 24, 2004 (Part II)

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H.R. 4663—Spending Control Act

H.R. 4663—Spending Control Act (Nussle)

Order of Business: The bill is scheduled to be considered on Thursday, June 24th, subject to a structured rule (H.Res. 692). Amendments are summarized below.

Summary: H.R. 4663 would implement discretionary budget caps (details below) and PAYGO for mandatory spending only (not including tax cuts, receipts, or whether the spending would increase the deficit) for two years through the end of fiscal year 2006. (See “Additional Background” section below for further explanation.) Discretionary advance appropriations provided in appropriation Acts in excess of \$23.56 billion (in either of FY2005 and FY2006 only) would be counted against the caps for the fiscal year for which the appropriation Act containing the advance appropriation is enacted.

The discretionary caps are as follows:

FY2005: \$817.73 billion in new overall budget authority (BA) and \$866.06 billion in outlays. (NOTE: These numbers are in line with the House-passed Budget Resolution conference report. But the Appropriations Committee’s numbers are \$821.92 billion in new BA for FY2005 and \$905.75 billion in outlays.) Highway category: \$30.59 billion in outlays. Mass transit category: \$1.55 billion in new BA and \$6.79 billion in outlays.

FY2006: \$839.17 billion in new overall budget authority (BA) and \$851.73 billion in outlays. Highway category: \$33.27 billion in outlays. Mass transit category: \$1.67 billion in new BA and \$7.59 billion in outlays.

FY2007: Highway category: \$35.25 billion in outlays. Mass transit category: \$1.79 billion in new BA and \$8.11 billion in outlays.

FY2008: Highway category: \$36.59 billion in outlays. Mass transit category: \$1.89 billion in new BA and \$8.52 billion in outlays.

FY2009: Highway category: \$37.68 billion in outlays. Mass transit category: \$2.02 billion in new BA and \$8.97 billion in outlays.

H.R. 4663 would define an emergency appropriation as “any provision that provides new budget authority and resulting outlays for a situation that poses a threat to life, property, or national security and is--

- sudden, quickly coming into being, and not building up over time;
- an urgent, pressing, and compelling need requiring immediate action;
- unforeseen, unpredictable, and unanticipated; and
- not permanent, temporary in nature.”

Furthermore, the bill clarifies that “an emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.” There could be no advance *emergency* appropriations. The bill would ensure that emergency appropriations and supplemental appropriations for the war on terrorism not included in the regular appropriations process would NOT be included as part of the Congressional Budget Office (CBO) or Office of Management and Budget (OMB) baselines.

The bill would provide, under certain circumstances, for an adjustment in the FY2005 discretionary cap for (contingent) supplemental appropriations related to the global war on terrorism (up to \$50 billion) and for wildfire suppression (up to \$500 million). Further, the bill would require that CBO cost estimates exclude certain outlay components of expiring tax provisions (from the Bush tax cuts).

Amendments Made in Order under the Rule (H.Res. 692):

Debate time indicated parenthetically

Vote outcome indicated in **red bold**.

Brady(TX)/Turner(TX) #9: Establishes a Federal Sunset Commission to review all federal agencies and programs for their efficiency, effectiveness, redundancy, and need. *(10 minutes)* **RSC members are encouraged to support this amendment. Amendment agreed to.**

Chocola #3: Replaces the 20 budget functions with a one-page budget that divides spending into the following five categories: mandatory spending, defense discretionary spending, non-defense discretionary, emergency spending, and interest. Establishes a new emergency category that would be comprised of both a “rainy-day” reserve fund for non-military emergencies and funding for military operations authorized by either a declaration of war or the use of military force. The rainy day fund would be equal to a rolling average of the five preceding years’ emergency spending. *(10 minutes)* **RSC members are encouraged to support this amendment. Amendment failed.**

Hastings(WA)/Castle #4: Eliminates the requirement of providing budget authority and outlays for the functional categories in the budget resolution. Grants the House and Senate Budget Committees the discretion to include such functional categories, if any, they deem appropriate in the budget resolution. The required contents of the budget resolution would include (1) total of new budget authority and outlays; (2) revenues; (3) surplus or deficit; and (4) public debt. *(10 minutes)* **RSC members are encouraged to support this amendment. Amendment failed.**

Hensarling #11: Imposes an entitlement cap, whereby the total level of direct spending is limited to inflation and the growth in a given program's beneficiary population. Inflation will be the higher of either the Consumer Price Index or whatever inflator (if any) is currently applicable to each program. This entitlement cap will be enforced by an across-the-board sequester of nonexempt accounts in the amount of any excess above the cap. Certain protected programs could only face a maximum 2% reduction. Provides that any measure that causes a breach in the cap or tampers with a sequester from properly occurring will be subject to point of order. The entitlement cap will not apply to Social Security. Provides that the new Medicare prescription drug benefit will be excluded from the cap until the program is fully phased-in. A sequester to enforce the cap will not reduce the funding of certain exempt programs. In addition to Social Security, substitute retirement programs such as Tier I railroad and CSRS for federal retirees, and other earned entitlements such as Medicare Part A, the newly redrawn list will consist of those programs that fulfill constitutional requirements, meet government commitments, and regulate economic institutions. In the event of a sequester, the funding of certain protected programs could only be reduced by a maximum of 2%. These so-called "2% programs" include Medicare Parts B-D, veterans, military and federal retiree benefits, as well as certain low-income programs. Requires the President's budget to include an analysis of the long-term unfunded obligations of current entitlements, a report on any increases enacted in the prior session of Congress, and the impact of any proposals included in the President's budget submission. In addition, any legislation that increases the long-term unfunded obligation will be subject to a point of order in both the House and the Senate. The Congressional Budget Office (CBO) will provide such estimates with each reported bill. (10 minutes) **RSC members are encouraged to support this amendment. Amendment failed.**

Hensarling #12: Provides for an automatic continuing resolution in the event that an agreement is not reached on spending levels by the legal deadline. The federal government will operate at the prior fiscal year's level. (10 minutes) **RSC members are encouraged to support this amendment. Amendment failed.**

Kirk #17: Requires CBO to prepare an annual analysis that compares budgeted entitlement spending to actual entitlement spending, with an account-by-account breakout to show spending trends and variances. (10 minutes) **RSC members are encouraged to support this amendment. Amendment agreed to.**

Ryan(WI)/Gutknecht #5: Converts the current non-binding budget resolution into a joint budget resolution that, if signed by the President, would have the force of law. In addition, if the President vetoes the budget resolution, Congress is allowed to proceed on its own under a concurrent budget resolution. (10 minutes) **RSC members are encouraged to support this amendment. Amendment failed.**

Ryan (WI)/ Neugebauer #6: Establishes Budget Protection Accounts which would allow Congress to target spending during the appropriation and direct spending process and redirect that spending for deficit reduction at the end of the fiscal year. (10 minutes) **RSC members are encouraged to support this amendment. Amendment failed.**

Ryan (WI)/ Stenholm/ Castle #7: Initiates enhanced rescission for the President to propose the elimination of wasteful spending identified in appropriation bills. The proposal must be transmitted to Congress accompanied by legislative language for the rescissions and any necessary reduction in the spending limits. Provides for expedited consideration through the legislative process. (10 minutes) **RSC members are encouraged to support this amendment. Amendment failed.**

Young (FL) #19: Increases the fiscal year 2005 discretionary 302(a) allocation to the full Appropriations Committee to increase transportation funding by no less than \$2.06 billion in new BA and no less than \$634.0 million in outlays. (10 minutes) **Amendment never offered.**

Young (FL) #21: Strikes section 2 of the bill (Extension of Discretionary Spending Limits). (10 minutes) **Amendment never offered.**

Young (FL) #22: Changes the start date of the fiscal year to November 1, beginning in November 1, 2005 (the start of the new FY2006). Directs the President to submit a budget covering October 1, 2005 to October 31, 2005, to provide for the transition to the new start of the fiscal year. (10 minutes) **Amendment never offered.**

Young (FL) #23: Requires sunseting of all federal programs (except earned entitlements) effective October 1, 2006, unless reauthorized prior to that date. (10 minutes) **Amendment never offered.**

Young (FL) #26: Strikes the provisions relating to limitations on advance appropriations. (10 minutes) **Amendment never offered.**

Spratt #2: Amendment in the Nature of a Substitute. Restores through FY2009 the Pay-As-You-Go (PAYGO) rules as they were originally established under the 1990 Budget Enforcement Act and extended in 1997. Requires that the net cost of all mandatory spending increases and all tax cuts enacted within a session be fully offset. Sets discretionary spending caps, as follows (compare to base bill's number above):

FY2005: \$832.47 billion in new overall budget authority (BA) and \$870.90 billion in outlays. (NOTE: These numbers exceed the House-passed Budget Resolution conference report.) Highway category: \$30.59 billion in outlays. Mass transit category: \$1.55 billion in new BA and \$6.79 billion in outlays.

FY2006: \$856.88 billion in new overall budget authority (BA) and \$965.99 billion in outlays. Highway category: \$33.27 billion in outlays. Mass transit category: \$1.67 billion in new BA and \$7.59 billion in outlays.

FY2007: Highway category: \$35.25 billion in outlays. Mass transit category: \$1.79 billion in new BA and \$8.11 billion in outlays.

FY2008: Highway category: \$36.59 billion in outlays. Mass transit category: \$1.89 billion in new BA and \$8.52 billion in outlays.

FY2009: Highway category: \$37.68 billion in outlays. Mass transit category: \$2.02 billion in new BA and \$8.97 billion in outlays.

(30 minutes) **Amendment failed.**

Hensarling/ Ryan (WI)/ Chocola/ Cox #15: Amendment in the Nature of a Substitute.

Establishes a joint budget resolution signed by President with the force of law, requiring the President and Congress to commit to same budget before spending money. Replaces 20 functions with one-page budget, setting spending for five categories: mandatory, non-defense, defense, interest, and emergencies. Permits biennial budgeting if the President and Congress agree in advance. Non-military emergencies must be handled with "rainy day" fund; spending from fund must be for sudden, urgent, unforeseen, and temporary emergencies. Provides government shutdown protection with automatic continuing resolution. Requires two-thirds supermajority vote in both houses for over-budget spending. Such points of order are protected from being waived in the House by a process used to guard against unfunded mandates. Eliminates automatic tax increases. Establishes "Family Budget Protection Accounts" to allow Congress to redirect savings found during the appropriations process to tax relief or deficit reduction at the end of fiscal year. Limits growth in entitlement spending to inflation adjustment for each program and population growth; discretionary caps allow growth for inflation, with firewall separating defense, non-defense, and emergency spending. Limits protected by points of order and enforced by sequesters. Expands programs eligible for sequester; exempts Social Security and Medicare Part A; protects Medicare Parts B, C, and D, Medicaid, veterans, military, federal retiree benefits, and certain low-income programs from reductions greater than 2%; President can exempt defense or homeland security accounts for national security. Sunsets every voluntary entitlement program and all discretionary programs in FY08 and FY09 to allow cost-benefit analysis of continued funding. (Exempts earned benefits.) Creates point of order to freeze program funding where authorization has lapsed. Provides expedited congressional consideration of proposed presidential rescissions. Commission recommends cutting waste, fraud, and abuse; proposals receive expedited congressional consideration (including in defense and entitlement spending). Requires use of nominal dollars to compare current spending with proposed spending. Requires agencies to fund government share of accruing costs of pension, retiree pay, and retiree health benefits earned by federal civilian and military employees. (No change to retiree benefits.) Defines public debt accurately by excluding debt government owes to itself. Risk-assumed budgeting provides for consideration of long-term liabilities of business-related federal insurance programs. (30 minutes) **RSC members are encouraged to support this amendment.**

Amendment failed.

Kirk #18: Amendment in the Nature of a Substitute. The current emergency appropriations procedure will be replaced by a "rainy-day fund" reserve account for emergencies, which is built up over time and drawn down as needed. Budget projections for the coming year will be compared to actual spending for the previous year, not inflation-adjusted "baselines." Federal spending above a set cap will trigger a spending sequester that imposes automatic, across-the-board spending reductions. Social Security and

Medicare accounts will be protected from spending cuts. Discretionary spending must stay within an annual cap, set by Congress every year. Provides for enhanced rescissions of budget authority identified by the President as wasteful spending. The President would be given authority to eliminate wasteful spending, by proposing a rescission package of spending. Congress will consider the President's proposed rescission package through expedited debate and an up-or-down vote. The President will appoint a bi-partisan commission to make recommendations on proposals to eliminate waste, fraud, and abuse in the federal budget. The commission will prepare a report to Congress that includes a list of wasteful or duplicative programs that should be reviewed by Congress. Through accrual accounting, federal funding of pensions and retirement benefits for federal employees and uniformed services personnel will be properly accounted for in the annual budget. Using accrual accounting principles, the budget will note the present value costs of health benefits for federal employees and uniformed services personnel. Federal debt to the public would be broken out in a separate accounting of intra-governmental debt. The limit on federal debt to the public would be adjusted to apply solely to publicly issued Treasury securities. Points of order to block spending proposals that exceed budget caps would be given protections from waivers included in rules adopted for floor action. PAYGO rules related to spending are extended until 2007. (30 minutes) **Amendment failed.**

Young (FL) #20: Amendment in the Nature of a Substitute. The amendment would: 1) require sequestration of mandatory spending in the event that OMB baseline estimates of mandatory spending exceed previous estimates due to enacted legislation; 2) require baseline estimates to exclude emergency spending; 3) provide an exception for outlay components of certain expiring receipts legislation when making estimates of mandatory spending legislation; 4) change the start date of the fiscal year to November 1 (see additional details in Young #22 amendment above); 5) require sunseting of all federal programs (except earned entitlements) effective October 1, 2006, unless reauthorized prior to that date; 6) change House rules to set the membership of the Budget Committee to be consistent with the original 1973 recommendations of the Joint Study Committee on Budget Control; 7) establish a Joint Committee to Conduct a Comprehensive Review of the Congressional Budget Process; 8) require an adjustment to the Appropriations Committee 302(a) allocation to increase transportation funding (see details in Young #19 Amendment above); and 9) make technical and conforming changes to the Balanced Budget and Emergency Deficit Control Act of 1985. (30 minutes) **Amendment withdrawn.**

Young (FL) #28: Strikes any provision that establishes, extends, or enforces discretionary spending limits. (10 minutes) **Amendment never offered.**

Additional Background: PAYGO, first established in 1990, is the process by which legislation causing an increase in direct spending or a decrease in revenue for a fiscal year was prohibited from resulting in a net cost for that year. Balances for each fiscal year were maintained on a rolling PAYGO “scorecard” that accumulated the budgetary effects of laws enacted during the session and in prior years. Violations of the PAYGO requirement were enforced by sequestration, an across-the-board cut in all non-exempt mandatory spending programs. H.R. 4663 states that the purpose of the PAYGO extension is “to assure that any legislation that is enacted before October 1, 2009, that causes a net increase in direct spending

will trigger an offsetting sequestration.” Increases in mandatory spending without offsets will trigger a sequestration across mandatory programs.

An advance appropriation is an appropriation that first becomes available one fiscal year or more beyond the fiscal year for which an appropriation Act making such funds available is enacted.

Committee Action: The earlier version of this bill, H.R. 3973, was introduced on March 16, 2004, was marked up by the Budget Committee and by voice vote ordered favorably reported to the full House on March 17, 2004, and was reported to the House on March 19, 2004. H.R. 4663 was dropped last night.

Administration Position: The Statement of Administration Policy (SAP) for H.R. 3973 states that “the Administration strongly supports H.R. 3973, as reported by the House Budget Committee....While the immediate priority is to establish spending controls as contained in H.R. 3973, the Administration also has proposed and supports a number of other budget process reforms.”

Cost to Taxpayers: The bill itself would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Budget Committee, in House Report 108-442, cites constitutional authority in Article I, Section 8, Clause 18 (the congressional power to make all laws necessary and proper to execute Congress’ enumerated powers).

Outside Organizations: The following organizations have indicated that they will consider including in their annual ratings of congressmen the vote on final passage plus several of the conservative amendments offered by Reps. Hensarling, Ryan, and Chocola:

- American Conservative Union
- Americans for Tax Reform
- Citizens for Government Waste
- Citizens for a Sound Economy
- National Taxpayers Union

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